

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

Title 15, United States Code, Section 1 (Price Fixing)

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: See attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

NEC TOKIN Corporation

DISTRICT COURT NUMBER

CR 15 0426 RS

 FILED
 SEP - 2 2015
 SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

- ☐
- person is awaiting trial in another Federal or State Court, give name of court

- ☐
- this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

- ☐
- this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.

- ☐
- this prosecution relates to a pending case involving this same defendant

MAGISTRATE
CASE NO.

- ☐
- prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form Jacklin Lem, Antitrust Division

☐ U.S. Attorney ☒ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) Jacklin Lem, Trial Attorney

IS NOT IN CUSTODY

- 1)
- ☒
- Has not been arrested, pending outcome this proceeding.
-
- If not detained give date any prior summons was served on above charges

- 2)
- ☐
- Is a Fugitive

- 3)
- ☐
- Is on Bail or Release from (show District)

IS IN CUSTODY

- 4)
- ☐
- On this charge

- 5)
- ☐
- On another conviction

☐ Federal ☐ State

- 6)
- ☐
- Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

- ☐
- SUMMONS
- ☒
- NO PROCESS*
- ☐
- WARRANT

Bail Amount: _____

If Summons, complete following:

- ☐
- Arraignment
- ☐
- Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

15-426 RS

PENALTY SHEET

Corporation: NEC TOKIN CORPORATION

Maximum Penalties, (For Each Count):

1. A fine in an amount equal to the largest of:
 - A. \$100 Million.
 - B. Twice the gross pecuniary gain derived from the crime.
 - C. Twice the gross pecuniary loss caused to the victims of the crime.
2. A term of probation of at least one year but not more than five years.
3. \$400 special assessment for each count.
4. Restitution.

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Attorneys for the United States

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA

v.

NEC TOKIN CORPORATION,

Defendant.

CR No. 15 0426

VIOLATION: 15 U.S.C. § 1

Price Fixing

INFORMATION

The United States of America, acting through its attorneys, charges:

I. DESCRIPTION OF THE OFFENSE

1. NEC TOKIN CORPORATION ("defendant" or "NEC TOKIN") is made a defendant on the charge stated below.

FILED
SEP - 22 2015
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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RS

1 2. From at least as early as September 1997 and continuing until in or about January
2 2014, coconspirators of the defendant entered into and engaged in a combination and conspiracy
3 to suppress and eliminate competition by fixing prices and rigging bids of certain electrolytic
4 capacitors in the United States and elsewhere. The combination and conspiracy engaged in by
5 the defendant and its coconspirators was in unreasonable restraint of interstate and foreign trade
6 and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

7 3. The defendant knowingly joined and participated in the charged conspiracy from
8 at least as early as April 2002 until in or about December 2013.

9 4. The charged combination and conspiracy consisted of a continuing agreement,
10 understanding, and concert of action among the defendant and coconspirators, the substantial
11 terms of which were to fix prices and rig bids of certain electrolytic capacitors.

12 13 II. BACKGROUND

14 5. Capacitors, also known as condensers, are a fundamental component of electrical
15 circuits and are used primarily to store and regulate electrical current. Electrolytic capacitors,
16 including aluminum and tantalum types, are a major sub-category of capacitors. Electrolytic
17 capacitors are ubiquitous and are found in many products that use electricity, run on a battery, or
18 plug into a socket. Desktop and notebook computers, flat-screen televisions, DVD players,
19 video and still digital cameras, gaming systems, car engine and airbag systems, home appliances,
20 office equipment, and motherboards and other printed circuit boards are some of the products
21 that contain electrolytic capacitors.

22 23 III. DEFENDANT AND COCONSPIRATORS

24 6. During the time period identified in paragraph 2, NEC TOKIN, a corporation
25 organized and existing under the laws of Japan, manufactured tantalum electrolytic capacitors
26 sold in the United States and elsewhere.

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28 //

1 7. During the time period identified in paragraph 2, NEC TOKIN's coconspirators
2 included business organizations that manufactured electrolytic capacitors sold in the United
3 States and elsewhere.

4 8. Various business organizations and individuals, not made defendants in this
5 Information, participated as coconspirators in the offense charged in this Information and
6 performed acts and made statements in furtherance of it.

7 9. Whenever in this Information reference is made to any act, deed, or transaction of
8 a business organization, the allegation means that the business organization engaged in the act,
9 deed, or transaction by or through its officers, directors, employees, agents, or other
10 representatives, or by or through the officers, directors, employees, agents, or other
11 representatives of its majority-owned and -controlled subsidiaries, while they were actively
12 engaged in the management, direction, control, or transaction of its business or affairs.

13
14 IV. MEANS AND METHODS OF THE CONSPIRACY

15 10. For the purpose of forming and carrying out the charged combination and
16 conspiracy, the defendant and coconspirators did those things that they combined and conspired
17 to do, including, among other things:

18 a) participated at times in meetings, conversations, and communications with
19 each other in China, Germany, Japan, Singapore, Taiwan, the United States, and
20 elsewhere to discuss prices and bids of certain electrolytic capacitors;

21 b) agreed during various meetings, conversations, and communications to
22 fix, increase, maintain, and stabilize prices and rig bids of certain electrolytic capacitors;

23 c) negotiated prices, submitted bids, and issued price announcements for
24 certain electrolytic capacitors in accordance with the agreements reached;

25 d) sold, distributed, and accepted payments for electrolytic capacitors at
26 collusive, noncompetitive prices and bids in accordance with the agreements reached;

27 e) collected, exchanged, monitored, and discussed information on prices,
28 bids, sales, supply, demand, shipping, and the production of electrolytic capacitors for the

1 purpose of reaching agreements on prices and bids and monitoring and enforcing
2 adherence to the agreements reached;

3 f) authorized, ordered, and consented to the participation of subordinate
4 employees in the conspiracy; and

5 g) took steps to conceal the conspiracy and conspiratorial meetings,
6 conversations, and communications through various means, such as using code names to
7 refer to coconspirators, limiting and discouraging retention and distribution of documents
8 reflecting conspiratorial contacts, and providing misleading justifications for prices and
9 bids provided to customers to cover up their collusive conduct.

10 These means and methods of the conspiracy all involved electrolytic capacitors sold to customers
11 located within the United States and elsewhere, including to customers that manufactured and/or
12 sold in the United States under major United States and other brands significant quantities of
13 electronic goods containing electrolytic capacitors, such as computers, televisions, and gaming
14 systems.

15 16 V. TRADE AND COMMERCE

17 11. During the time period identified in paragraph 2, NEC TOKIN and its
18 coconspirators manufactured electrolytic capacitors in Japan, Thailand, China, the United States,
19 and elsewhere and sold them in the United States or for delivery to the United States. The
20 charged combination and conspiracy involved trade or commerce within the United States and
21 U.S. import trade or commerce in electrolytic capacitors.

22 12. During the time period identified in paragraph 2, NEC TOKIN and its
23 coconspirators also sold foreign-manufactured electrolytic capacitors outside the United States
24 for incorporation into other products, including computers, televisions, and gaming systems, that
25 were sold in or for delivery to the United States. The charged combination and conspiracy had a
26 direct, substantial, and reasonably foreseeable effect on trade or commerce within the United
27 States or U.S. import trade or commerce in these electrolytic capacitor-containing products, and
28 that effect, in part, gives rise to this charge.

1 13. During the time period identified in paragraph 2, NEC TOKIN and its
2 coconspirators sold and shipped substantial quantities of electrolytic capacitors in a continuous
3 and uninterrupted flow of interstate and U.S. import trade or commerce from the United States
4 and foreign countries to customers located in various states in the United States, including states
5 other than where the electrolytic capacitors were manufactured. In addition, substantial
6 quantities of equipment and supplies necessary for the manufacture, sale, and distribution of
7 electrolytic capacitors, as well as substantial payments for such electrolytic capacitors sold by
8 NEC TOKIN and its coconspirators, traveled in interstate and U.S. import trade or commerce.
9 During the time period identified in paragraph 2, the business activities of NEC TOKIN and its
10 coconspirators that are the subject of this Information were within the flow of, and substantially
11 affected, interstate and U.S. import trade or commerce. During the time period identified in
12 paragraph 2, the charged combination and conspiracy had a substantial and intended effect in the
13 United States, including on trade or commerce within the United States and U.S. import trade or
14 commerce in electrolytic capacitors and products containing electrolytic capacitors.

15
16 VI. JURISDICTION AND VENUE

17 14. The combination and conspiracy charged in this Information was carried out, in
18 part, in the Northern District of California, and continued within the five years preceding the
19 return of this Information.

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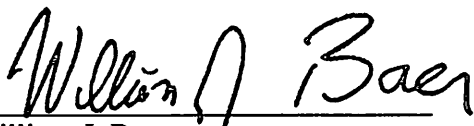
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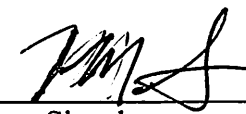
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ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

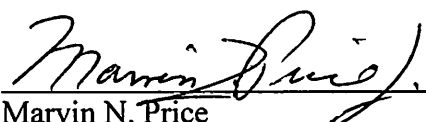
Dated: September 2, 2015.



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